

Application No.: 09/992,665

REMARKS

Claims 67-72, 7578-80, 96, and 135-136 are pending. This supplemental preliminary amendment is submitted to clarify the claims in this case. Claim 74 was combined into claim 75. Claims 73, 74, 76, 77 are cancelled without prejudice. Claims 78-79 are amended to correct for antecedent basis. Claims 70, 71, 75, 80, 82-90, and 94-110 are amended for clarity. Claim 96 was amended to specifically recite HeyL/HRT3 with support in the specification, e.g., at page 32, paragraph 77, with HeyL/HRT3 being a subspecies of Hey/HRT, which is also claimed in claim 96. New claims 135 and 136 are added, as described below.

Group 37 is now undergoing prosecution, with Group 37 now being claims 67-72, 75, 78-81, and 96 e.g., as provided at page 4 of the Office Action dated March 1, 2005. The species Hey/HRT is being examined (claim 96) and, in the most recent Office Action, three of the four species of claim 75 were examined: lung cancer, small cell lung cancer, and non small cell lung cancer. Claim 67 links its various dependent claims, rejoinder of which is requested upon allowance of claim 67.

A Re-Restriction in light of the clarified claims is requested, with the intent of resolving procedural issues and facilitating substantive examination. In case of a new restriction, the Applicant provisionally elects the same Group 37 and the same "non-small cell lung cancer condition". A further provisional election of species is made to detection of autoantibodies against HeyL/HRT3, Sox1, Sox2, and Nkx5.2, e.g., as described and enabled per paragraph 77 and Table 11 on page 32 of the Application. The provisionally elected HeyL/HRT3 is a subspecies of the elected species of record, Hey/HRT, so that the provisionally elected HeyL/HRT3, Sox1, Sox2, and Nkx5.2 would have continuity with

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Applicant's previous election. Certainly the Applicant would have originally chosen this species for examination if the Examiner's process for applying restriction rules had been understood. Objections to the process for applying the restriction rules are of record and are respectfully renewed. The Re-Restriction, however, is intended to dispose of the outstanding issues related to restriction practice.

New claim 135 has been added, and is essentially a duplicate of amended claim 101 except that it depends from claim 96, which is presently under examination. New claim 136 has been added and is essentially duplicate of claim 102 except that it depends from new claim 135. Accordingly, the provisionally elected species are found in the claims as follows: HeyL/HRT3 in claim 96, Sox 1 in claims 101 and 135, Sox 2 in claims 101 and 135, Nkx5.2 in claims 102 and 136, with claim 136 including all of the provisionally elected combination.

A supplemental information disclosure statement (IDS) was submitted simultaneously with this Amendment, review of the IDS is requested.

An RCE was filed March 15, 2006 with a request for entry of the Amendment dated November 15, 2005; the present amendment and remarks supplement the same.


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CONCLUSION

In view of the foregoing, it is submitted that this application is in condition for allowance. Favorable consideration and prompt allowance of the application are respectfully requested.

The Examiner is invited to telephone the undersigned if the Examiner believes it would be useful to advance prosecution

Respectfully submitted,


Wm. Larry Alexander
Registration No. 37,269

Customer No. 24113
Patterson, Thunte, Skaar & Christensen, P.A.
4800 IDS Center
80 South 8th Street
Minneapolis, Minnesota 55402-2100
Telephone: (612) 349-5757